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WORKING SESSION MEMORANDUM

DATE: February 3, 2012

TO: Alderman Marcia T. Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development
Eve Tapper, Chief Planner for Current Planning
Seth Zeren, Chief Zoning Code Official 

RE: #400-11: Ald. Gentile, Harney, Sangiolo requesting establishment of a Business 5/Riverside Zone: a mixed-use transit-oriented district at the site of the current Riverside MBTA rail station. The proposed new zone shall allow by special permit a single commercial office building not to exceed 225,000 square feet with a maximum height of 9 stories, two residential buildings not to exceed 290 housing units in total, retail space not to exceed 20,000 square feet, along with a multi-use community center.

MEETING DATE: February 9, 2012

CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor

INTRODUCTION

At the January 23rd working session of the Zoning and Planning Committee, the Planning Department introduced a menu of zoning tools and their policy implications to seek consensus in crafting a new zone for the redevelopment of the Riverside MBTA station ("Riverside"). This report concludes that presentation and recaps the consensus to date. By the end of this meeting, the staff presentation will be complete and consensus items identified so that staff can prepare a draft ordinance for review at the Zoning and Planning Committee meeting on February 15th.

MENU OF ZONING OPTIONS (continued)

Incentives: How can we encourage public benefits?

- **Additional height for more open space and/or community space.** For example, for every additional 5% of beneficial open space in excess of the minimum required, an additional ten feet of building height could be allowed up to a specified maximum.
- **Additional height or floor area for more affordable housing.** Additional height or floor area could be allowed for providing additional affordable housing beyond the minimum 15% already required in the Newton Zoning Ordinance (NZO) or for making a financial contribution to affordable housing elsewhere in the City.
- **Additional height or floor area for vertical integration.** Additional height or floor area could be allowed in exchange for the vertical integration of uses within individual buildings on the site.
- **Additional height or floor area for sustainable design that exceeds what is required.** An additional ten feet of building height or additional floor area could be allowed if the proposed development significantly exceeds the NZO's requirements for sustainability, for example by attaining LEED certification or by providing "green roofs."

Parking: How can we encourage shared parking?

One of the benefits of mixed-use development is the potential for sharing parking at different times of day or days of the week. Traffic and parking studies are typically required for large projects and it is particularly important to evaluate the potential for maximizing shared parking opportunities and strengthening the use of alternative modes of transportation to foster a model transit-oriented development. Peer reviews are routinely required for such an analysis (selected by Planning Department at developer's expense) to demonstrate that parking is sufficient for the combination of uses proposed, but not over-supplied. After granting a special permit, changes to the combination of uses could require review and approval by the Planning Director to determine that sufficient parking continues to accommodate any new combination of uses. A professional shared-parking analysis can inform this consideration.

Site Plan and Special Permit Processes: How should these be addressed?

- **Two-tiered review.** The Planning Department recommends a two-tiered review for development of this site starting with 1) review of conceptual plans, including general layout of buildings, open space, and uses and anticipated impacts followed by 2) final approval of engineered drawings. The Land Use Committee would review the concept plan and provide tentative approval before considering final site plan/special permit approvals. This process will offer the developer an opportunity to address any issues before having invested in engineering costs and provides for public comment at both stages.

- **Post-construction public facilities impact study.** Studies of actual impacts on public facilities including road capacity, water, and sewer systems could ensure consistency between projected and actual impacts. Monitoring should begin after the establishment of the use and continue for several years to ensure measurements of normal operations. If actual impacts exceed projected acceptable ranges, alterations to the development would be required until the impacts are properly addressed (as defined in the special permit) or a bond forfeited.
- **Project phasing.** Phasing is very helpful in allowing projects to respond to changing market conditions and the complexity and expense of developing an entire large site at once. While the schedule of phases will be set out in the special permit, the zoning text could specify that phasing would be allowed and that all infrastructure improvements be in place prior to issuance of a certificate of occupancy for that portion of the project that relies on such improvements.

SUMMARY OF PREVIOUS MEETING COMMENTS AND RESPONSES TO QUESTIONS

At the January 23rd meeting, the Committee generally agreed that a new zone for Riverside should:

- Require a mix of uses, but not require that the development include a fixed percentage, but perhaps a range for each category of uses to allow for flexibility in design as well as to account for fluctuations in the market.
- Include a minimum development parcel size of ten acres to ensure that a project is comprehensively designed to integrate the whole site.
- Require more than 5% beneficial open space.
- Allow height in excess of nine stories, possibly by employing “contextual height” as a frame of reference.
- Allow stepped setbacks for taller elements of buildings to minimize the visual impact of the massing of a structure on pedestrians at street level where needed.
- Require the development not be inconsistent with the *Comprehensive Plan* and its Mixed-Use Centers Element.

The Committee discussed, but reached no conclusions on the concepts below. The Planning Department’s recap below reflects comments, suggestions, and questions noted at that session.

Name and purpose of the zone

Several Aldermen questioned whether the proposed development is actually transit-oriented and, therefore, whether the name and purpose should include references to this type of development. While transit-oriented development is typically mixed-use development, not all mixed-use development is transit-oriented. In order to qualify as transit-oriented, development must be:

“A high-density and walkable mixed-use residential, office, and/or retail area situated at or in close proximity to a transit station. Due to the site’s close location to public transportation,

pedestrians and bicyclists are treated with the highest priority and single-occupancy vehicle use is discouraged. Bicycle and pedestrian uses are encouraged by having amenities, such as secure bicycle storage and wide, well-lit and landscaped pedestrian routes. Single-occupancy vehicle use is discouraged by utilizing aggressive transportation demand tactics. Buildings are generally constructed to allow for easy movement between multiple uses on site. In addition, shared parking strategies are utilized to minimize the number of parking spaces on site.”¹

It is debatable whether the developer’s designs to date exemplify a true transit-oriented development. Should the Board wish to foster this objective, there are a variety of ways the Board could do so. For example, rewarding transit-oriented features in the zoning text, employing performance standards to limit traffic impacts, requiring bicycle racks and pedestrian-friendly sidewalks, and employing transportation demand management (TDM) plans are all strategies that would strengthen the site’s multi-modal potential.

The Committee also discussed the pros and cons of including a site-specific purpose at the beginning of the zoning text. Alderman Yates recommended amending the Planning Department’s proposed language to read as follows (Alderman Yates’ additions are bolded):

“This district shall only be used on a site that combines mass transit and proximity to an interstate highway. This district shall protect adjacent and other city neighborhoods from undue impacts while allowing sufficient density to make such a development economically feasible. To accomplish these goals new development shall provide enhancements to public infrastructure, be integrated with and protect nearby neighborhoods, provide a mix of compatible and complementary commercial and residential uses appropriate for transit-oriented sites, and advance the principles of the City’s Comprehensive Plan, including its long-term goal of strengthening alternatives to single-occupancy automobile use.”

By identifying proximity to mass transit and an interstate, this zoning text could then be applied to other similarly situated sites if the Board would like the zone to be available elsewhere, so the Board should consider whether this is intended or desirable. As staff has noted previously, the site may be unique enough to warrant a site-specific approach and not be considered a candidate for spot zoning.

Limiting overall development and requiring a mix of uses

Committee members expressed support for limiting the overall development allowed at the Riverside site and requiring a mixture of uses, while ensuring that the mix is flexible enough to respond to changes in the market. The docket language sets caps on the amount of office, residential and retail uses that may be developed on the site. Using these figures, the Planning Department calculated that the proposed Riverside project contains close to one million square feet of additional development,

¹ From the Metropolitan Area Planning Council’s (MAPC) report of Riverside entitled “The Station at Riverside – A Smart Growth Analysis” (dated September 2011)

including accessory parking (not including the MBTA parking structure and intermodal station). Of the non-parking uses, approximately 40% would be office, 56% residential, 3% retail, services, and restaurants, and 1% community uses.

While the majority of the Committee preferred not to set minimum proportions for each use, the Committee differed on whether there should be a maximum proportion allowed for each use. Based on the docketers' intent to limit the size of the development to ensure that the impacts of the development on the surrounding neighborhoods are minimized, the Planning Department offers two suggestions: 1) Identify a range for each category of uses, such as 35-45% office, 50-60% residential, 3-10% retail, 1-5% community space; or 2) cap the gross square footage above grade of the entire development at one million square feet (not including the MBTA parking structure and intermodal station) and evaluate the mix of uses during the special permit process based on studies of potential impacts. Percentages for each category of use could then, if necessary, be set as conditions of the special permit to address any potential impacts on the City. In either case, should there be a need or desire to change the mix of uses, they would be subject to Board approval. If the mix is specified in the zoning text, changes to both the zoning regulations and the special permit would be required, which may be viewed as onerous when a single Board review (through special permit) could address such modifications.

Allowed uses

The Committee asked the Planning Department to incorporate a broader array of allowed uses within the categories referenced by the docket language: office, retail, residential, and community or public use. In response, the Planning Department prepared the Table of Principal Uses in Attachment A. In order to avoid regulatory takings, some uses must be allowed by right. Therefore, the Planning Department designated some uses in the table as such, but notes that any development of greater than or equal to 20,000 square feet would be subject to special permit. Those uses allowed by right help provide flexibility for the alteration of uses into the future by allowing, for example, a restaurant to be replaced by a personal service establishment, so long as parking requirements are satisfied.

The Planning Department recommends including several additional provisions in order to limit impacts and encourage neighborhood-focused services and amenities, while allowing flexibility of use in the future:

- Offices, financial services, and professional services are proposed on the ground floor by special permit to encourage an enlivened streetscape.
- Retail sales, financial services, professional services, personal services, and restaurants would be limited to less than 5,000 square feet per establishment by right and would require a special permit to be larger; this would encourage more, smaller uses and discourage especially large, destination uses.

Residential density

Docket #400-11 calls for a maximum of 290 dwelling units in any new Riverside development. A variety of mechanisms could be used to achieve this goal:

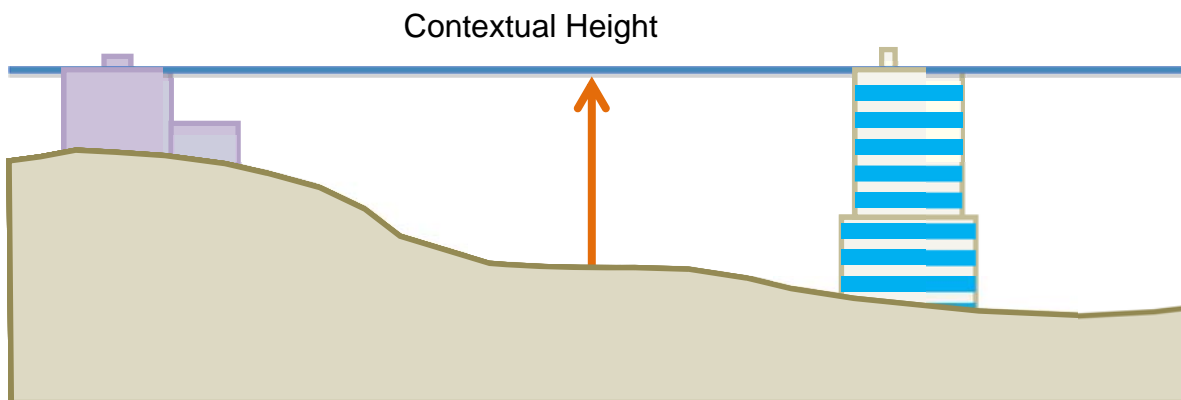
- Set a cap of 290 dwelling units in the zoning text; although this approach doesn't address the square footage or number of bedrooms of the new units that can affect project impacts, it creates a finite cap
- Set a minimum lot area per dwelling unit; in the Business 4 zone, for example, the minimum is 1,200 square feet of lot area per dwelling unit and is a standard that has functioned well in the past.²
- Set performance measures for school and traffic impacts to manage the impacts of residential dwellings
- Set a cap for the total number of dwelling units *and* include performance standards to adjust for impacts.

Regulating height and stories

Stories vary in height, from about ten feet for parking structures to 12-15 feet for residential and commercial buildings, so the Planning Department recommends regulating height rather than stories.

Contextual height and incentives

The concept of contextual height is based on using the height of existing buildings in the area as a frame of reference for the height of new structures, rather than measuring height from grade beneath each building.



During the last working session, the Committee was open to the possibility of a ten-story office tower, which could reasonably have a contextual height of approximately 203 feet above the Newton Base Elevation. The Hotel Indigo has contextual height of 173 feet above the Newton Base Elevation and is the highest structure within 1,200 feet. The zoning text could provide the option to exceed the

²With a minimum lot area of 1,200 square feet, 100 dwelling units would be allowed on a 120,000 square foot lot (approx. 3 acres)— $120,000/1,200 = 100$). This approach sets a constant density for housing that will produce a final number of units depending on the ultimate size of the development parcel. This threshold could be set in such a way as to allow only a maximum of 290 units—depending on the size of the development parcel, this could vary from 1,200 to 2,200 square feet

contextual building height by adding one or more of the incentives, such as open space, sustainable design features, affordable housing, or vertical integration of uses. An alternative is to set a maximum height with or without reliance on incentives. With incentives, however, additional public benefits may be created.

Setbacks

The Committee expressed support for the “adaptive setbacks” and “stepped setbacks” concepts. Given the varied topography, relationships to a scenic road and interstate highway, different approaches are appropriate. Along Grove Street, the Planning Department suggests a setback of a distance equal to ½ of the building height. Where the development parcel abuts the interstate highway ROW or the MBTA train yard, the Planning Department suggests that the required setback could be zero feet, as development there will not impact abutters.

Beneficial open space requirement and incentives

Beneficial open space is defined in the zoning ordinance as:

“Areas not covered by buildings or structures, which shall specifically include, but are not limited to: landscaped areas; playgrounds; walkways; plazas, patios, terraces and other hardscaped areas; and recreational areas, and shall not include: (i) portions of walkways intended primarily for circulation, i.e., that do not incorporate landscape features, sculpture or artwork, public benches, bicycle racks, kiosks or other public amenities, or (ii) surface parking facilities, or (iii) areas that are accessory to a single housing unit, or (iv) areas that are accessory to a single commercial unit, and controlled by the tenant thereof, and not made available to the general public. In calculations of the amount of beneficial open space provided, an offset of ten percent (10%) of the otherwise applicable square footage requirements shall be made for the provision of well-maintained publicly available green planted areas.”

The standard for beneficial open space is more stringent than for the open space required in residential areas of the City; some undeveloped portions of a site, including circulation walkways, vegetative buffers, and parking lot landscaping would not count toward beneficial open space. In the previous working session, the Planning Department suggested setting the beneficial open space requirement at 5% of the development parcel given that other commercial and mixed-use zones do not require any open space at all. The Committee expressed a general support for increasing the minimum requirement and staff suggests 10% as a baseline.

Implementing performance standards

The Committee reached some consensus around the idea that performance measures should focus on limiting impacts on public facilities first and foremost. Toward that end, the Planning Department recommends that the Board require performance measures for the impacts of the following and require that a potential developer present a viable plan (subject to peer review) demonstrating how the community will be protected during construction and for the life of development:

- Traffic/roads
- Schools with respect to both additional enrollment and capacity
- Water and sewer systems

The Planning Department suggested several other performance measures in the memo for the Committee's January 23, 2012 working session. These concepts could be added to the criteria as additional findings that the Board of Aldermen would need to make in approving a special permit on this site:

- Is not inconsistent with the Comprehensive Plan
- Achieves excellence in place-making through:
 - High quality architectural design
 - A mixture of uses where residents and visitors can live, work, and play
 - Pedestrian-scale design including building footprints and articulation, street-level windows and entrances, and walkways throughout the site
 - Public spaces that connect and sustain a variety of uses, promote a vibrant street life, and connect to the surrounding neighborhood
 - Enhanced open space for passive and active recreation
- Encourages alternatives to single occupancy automobile transportation through enhanced public transportation, and improved pedestrian and bicycle facilities and access to, through and around the site
- Implements a transportation demand management plan
- Encourages a diversity of housing opportunities in Newton and provides for a full range of housing choices throughout the City for households of all incomes, ages, and sizes
- Ensures architectural consistency and quality of signage through a comprehensive signage program

RECOMMENDED ACTION AND NEXT STEPS

Following this working session, the Planning Department will summarize the areas of consensus and comments from this meeting and the previous one and will draft a zoning text amendment for discussion at the Zoning and Planning Committee's next meeting on February 15th.

ATTACHMENT A

TABLE OF PRINCIPAL USES	
Commercial:	
• Office (including general office, research and development, office of a licensed professional, medical and dental offices, business services, investment services, insurance company and similar uses,)	BR
• Retail sales (including market, pharmacy, convenience store, newsstand, retail bakery, specialty foods, general merchandise, and similar uses)	BR
• Financial services (including bank, credit agency, or similar uses)	BR
• Personal services (including barber shop, salon, laundry, dry cleaning, personal trainer or studio, tailor, cobbler, repair shop, and similar uses)	BR
• Eating and drinking (including restaurant, delicatessen, café, tavern, bar, and similar uses)	BR
• Health club	BR
• Place of Entertainment and Assembly (including theater, hall, club, place of amusement, and similar uses)	SP
• Lodging (including hotel, motel, bed and breakfast)	SP
• Parking, non-accessory commercial	SP
• Drive-through uses (drive-through establishment of any of the other uses enumerated in this section)	X
Residential	
• Residential dwelling above the first floor	BR
• Artist live/work space	BR
• Group home	BR
• Single room occupancy	SP
• Multifamily housing	SP
• Townhouse	SP
• Assisted living or nursing home	SP
Public and Community	
• Community center or hall • Day care (adult or child) • Place of religious assembly • Government offices or services • Park or garden • Nonprofit or public school • Rail or bus terminal • Public parking	BR
• Uses similar to or accessory to the above	BR

**Uses permitted by right (designated as “BR” in green), by special permit (“SP” in yellow), or not permitted (“X” in red). Subheadings note specific alterations to the principal use, which would require additional relief.*